

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH G. MCGILL,  
Plaintiff,

v.

THE HOME DEPOT, INC.,  
Defendant.

Case No. [15-cv-03029-KAW](#)

**ORDER DISMISSING CASE FOR  
FAILURE TO PROSECUTE**

On January 22, 2016, the Court granted Plaintiff Joseph G. McGill's counsel's motion to withdraw on the grounds that Plaintiff failed to communicate despite counsel's efforts to reach him using various forms of communication since April 2015. (Dkt. No. 32.)

On March 8, 2016, the Court held a case management conference, at which Plaintiff did not appear. (*See* Dkt. No. 35.) On March 11, 2016, the Court issued an order to show cause to Plaintiff to explain why the case should not be dismissed for failure to prosecute, and to explain why he did not attend the March 8, 2016 case management conference. (Dkt. No. 36.) Therein, Court provided Plaintiff with the contact information for the Federal Pro Bono Project's Help Desk, as well as the district court's manual for pro se litigants, to assist him in representing himself. *Id.* The response deadline was March 31, 2016. *Id.* On March 21, 2016, pursuant to Civil Local Rule 11-5(b), the order to show cause was served on Plaintiff via U.S. Mail by his former attorney. (Dkt. No. 37.) To date, Plaintiff has not responded to the OSC nor has he filed any documents in connection with his case.

Federal Rule of Civil Procedure 41(b) permits the involuntary dismissal of an action or claim for a plaintiff's failure to prosecute. *See Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962) ("authority of a court to dismiss sua sponte for lack of prosecution has generally been

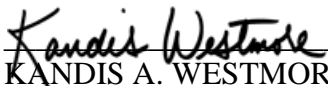
1 considered an ‘inherent power’”). Unless otherwise stated, a dismissal under Rule 41(b) “operates  
2 as an adjudication on the merits.” Fed. R. Civ. P. 41(b).

3 In light of the foregoing, the case is dismissed without prejudice for failure to prosecute.

4 Plaintiff’s former counsel shall serve a copy of this order on Plaintiff at his last known  
5 address.

6 IT IS SO ORDERED.

7 Dated: April 20, 2016

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KANDIS A. WESTMORE  
9 United States Magistrate Judge  
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